

SENATE BILL NO. 510

INTRODUCED BY C. STAPLETON, F. THOMAS, COLE, EKEGREN

A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING THE LEASING OF ~~LAND~~ PROPERTY FOR COAL MINING THAT IS RECEIVED FROM THE UNITED STATES GOVERNMENT AS PART OF THE CROWN BUTTE LAND EXCHANGE; PROVIDING THAT ~~LEASE FEES, RENTALS AND BONUSES, AND MONEY COLLECTED AS ROYALTIES FROM THE LANDS BE ALLOCATED TO INVESTMENTS FOR A BRIDGE TO THE NEW ECONOMY, PAY FOR BASIC AND PER ANB ENTITLEMENTS,~~ RESEARCH AND COMMERCIALIZATION PROJECTS AT RESEARCH AND COMMERCIALIZATION CENTERS, VOCATIONAL-TECHNICAL EDUCATION, AND ELEMENTARY AND SECONDARY SCHOOL TECHNOLOGY PURCHASES PROCEEDS FROM THE LEASES BE USED FOR EDUCATION PURPOSES IF PERMITTED; PROVIDING A TAX INCENTIVE TO SELL COAL TO AN ELECTRICAL ENERGY GENERATING PLANT THAT AGREES AS PART OF THE CONTRACT TO USE THE POWER GENERATED FROM THE COAL SUBJECT TO THE CONTRACT FOR SALE TO MONTANA CUSTOMERS AT A RATE THAT TAKES INTO ACCOUNT THE AMOUNT OF THE CREDIT; AMENDING SECTIONS SECTION 77-3-303 AND 77-3-318, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-3-303, MCA, is amended to read:

"77-3-303. Rules relating to coal leasing. (1) The board ~~shall have the power and authority to prescribe such additional~~ may adopt rules and ~~to do and~~ perform all acts and things not inconsistent with The Enabling Act, the constitution, and the statutes of this state ~~as that it may deem~~ considers necessary and proper relating to the leasing of state land for coal mining purposes.

(2) The board is encouraged to lease the ~~state land and mineral rights~~ PROPERTY INTERESTS acquired from the federal government in the Crown Butte land exchange for coal mining purposes. The proceeds from the leases must be used for the purposes provided in the transfer DIRECT FUNDING OF EDUCATION, INCLUDING K-12 SCHOOL DISTRICTS, INSTITUTIONS OF HIGHER EDUCATION, AND VOCATIONAL-TECHNICAL EDUCATION, UNLESS OTHERWISE PROVIDED IN THE TRANSFER AGREEMENT."

~~Section 2. Section 77-3-318, MCA, is amended to read:~~

~~"77-3-318. Disposition of royalties and other receipts. (1) All Except as provided in subsection (2), all fees, rentals, royalties, and bonuses collected under state coal leases shall must be paid to the department and credited as follows:~~

~~(1)(a) All fees shall must be credited to the state general fund.~~

~~(2)(b) All rentals and bonuses shall must be credited to the income fund of the grant to which the lands under each lease belong.~~

~~(3)(c) All moneys money collected as royalties shall must be credited to the permanent fund arising from the grants to which the lands under lease belong.~~

~~(2) All fees, rentals and bonuses, and money collected as royalties from lands referred to in 77-3-303(2) must be allocated as follows:~~

~~(a) 50% of the funds must be deposited in the state special revenue account provided for in [section 6] to provide funds for a bridge to the new economy GENERAL FUND TO PAY FOR BASIC AND PER-ANB ENTITLEMENTS AS PROVIDED IN TITLE 20, CHAPTER 9, PART 3 STATE SPECIAL REVENUE FUND FOR STATE EQUALIZATION AID;~~

~~(b) 25% of the funds must be deposited in the research and commercialization expendable trust provided for in 90-3-1003; and~~

~~(c) 25% of the funds must be allocated by the legislature for vocational-technical education and for school technology purchases as provided in 20-9-534."~~

~~NEW SECTION. Section 3. New coal production incentive tax credit allowed -- application limited.~~

~~(1) A coal mine operator is entitled to a new coal production incentive tax credit against the tax imposed under 15-35-103 of:~~

~~(a) 40% for incremental production sold after June 30, 2001, and before July 1, 2002; and~~

~~(b) 25% for incremental production sold after June 30, 2002, and before July 1, 2003.~~

~~(2) A coal mine operator is entitled to a new coal production incentive tax credit against the tax imposed under 15-35-103 on incremental production for the entire term of an agreement, except as provided in subsection (3).~~

~~(3) A credit may not be claimed for coal produced prior to January 1, 2001.~~

~~NEW SECTION. Section 4. Calculation and application of credit.~~ (1) The amount of new coal production incentive tax credit that a coal mine operator may claim against the tax imposed in 15-35-103 is calculated by:

~~(a) determining the incremental production for each of the coal mine operator's qualified purchasers that was produced during a calendar year;~~

~~(b) distributing the incremental production among the quarters in the calendar year in the same proportion as the total volume of coal sold each quarter to each respective purchaser and totaling the amounts for all purchasers to determine the coal mine operator's incremental production for each quarter;~~

~~(c) determining the arithmetic average severance tax for each ton calculated prior to application of the credit on coal sold to each qualified purchaser each quarter during the calendar year;~~

~~(d) multiplying the incremental production for a quarter for a purchaser by the average severance tax for each ton for that purchaser and multiplying the total by the appropriate percentage, as provided in [section 3], for each quarter; and~~

~~(e) totaling the amount calculated for all qualified purchasers for all 4 quarters of the calendar year.~~

~~(2) When filing the quarterly statement required in 15-35-104, a coal mine operator may claim against the coal severance tax calculated for that quarter an amount equal to 25% of the new coal production incentive tax credit allowed on incremental production that occurred during the previous calendar year.~~

~~(3) Neither a coal mine operator nor a purchaser is entitled to a direct payment for the credit allowed in [section 3]. A credit terminates if not taken during the year following the year in which the incremental production occurred.~~

~~(4) Each coal mine operator shall reduce the delivered price of coal sold to each qualified purchaser by an amount equal to the credit received on incremental production sold to that qualified purchaser.~~

~~(5) For the purposes of this section, "qualified purchaser" means an electrical energy generating plant that agrees as part of the contract to use the power generated from the coal subject to the contract for sale to Montana customers at a rate that takes into account the amount of the credit.~~

~~NEW SECTION. Section 5. Reporting requirements -- duty of department.~~ (1) Every Montana coal mine operator shall provide to the department:

1 ~~——— (a) on or before April 30, 2001, a list showing the amount of coal produced and sold in calendar~~
2 ~~years 2000 and 2001 to every purchaser, including purchasers who obtained coal from the coal mine~~
3 ~~operator through a broker; and~~

4 ~~——— (b) with the quarterly statement required by 15-35-104, a list of the number of tons produced and~~
5 ~~sold to every purchaser during the quarter and the severance tax calculated prior to the application of the~~
6 ~~credit on these tons.~~

7 ~~——— (2) To be eligible for the tax credit provided for in [section 3], a coal mine operator shall furnish~~
8 ~~to the department:~~

9 ~~——— (a) on or before April 30, 2001, copies of all existing coal sales agreements;~~

10 ~~——— (b) with the quarterly statement required by 15-35-104, a copy of any new coal sales agreements~~
11 ~~or extensions of existing agreements executed during the quarter;~~

12 ~~——— (c) on or before January 31 of each year:~~

13 ~~——— (i) a list of incremental production for all qualified purchasers during the previous calendar year;~~

14 ~~——— (ii) a written statement from each qualified purchaser verifying the volume of coal purchased in that~~
15 ~~year from all Montana coal mine operators; and~~

16 ~~——— (iii) the necessary information on incremental production purchased through a broker to verify that~~
17 ~~the incremental production did not cause a reduction in the consumption level of any other purchaser of~~
18 ~~Montana coal; and~~

19 ~~——— (d) any other data, reports, evidence, or production data that may be necessary for the department~~
20 ~~to determine whether a purchaser is a qualified purchaser.~~

21 ~~——— (3) Any coal mine operator or purchaser may, for the purpose of determining the eligibility of coal~~
22 ~~production for the new coal production incentive tax credit, file with the department a petition for a~~
23 ~~declaratory ruling as provided in 2-4-501. The department shall issue a ruling on the petition within 90~~
24 ~~days of the date on which the petition was filed with the department.~~

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26 ~~——— **NEW SECTION. Section 6. Bridge to new economy account.** There is an account in the state~~
27 ~~special revenue fund into which funds allocated under 77-3-318 are deposited. The money in the account~~
28 ~~must be used by the board for the purposes of investing in Montana businesses that will maintain and~~
29 ~~expand the state's economic base and will provide job opportunities for Montanans. Repayments of loans~~
30 ~~and interest and earnings on the account must be deposited in and are retained by the account.~~

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2 ~~NEW SECTION. Section 7. Codification instruction. (1) [Sections 3 through 5] are intended to be~~
3 ~~codified as an integral part of Title 15, chapter 35, and the provisions of Title 15, chapter 35, apply to~~
4 ~~{sections 3 through 5}.~~

5 ~~(2) [Section 6] is intended to be codified as an integral part of Title 17, chapter 6, part 3, and the~~
6 ~~provisions of Title 17, chapter 6, part 3, apply to {section 6}.~~

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8 NEW SECTION. Section 2. Contingent effective date. [This act] is effective on the date that the
9 governor certifies by executive order that the federal government has transferred the title to ~~land and~~
10 ~~mineral rights~~ FEDERAL PROPERTY INTERESTS to the state as part of the Crown Butte land exchange and
11 certifies that the ~~lands are~~ PROPERTY IS not restricted from being used as provided in [this act]. The governor
12 shall provide a copy of the executive order to the secretary of state and the code commissioner.

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